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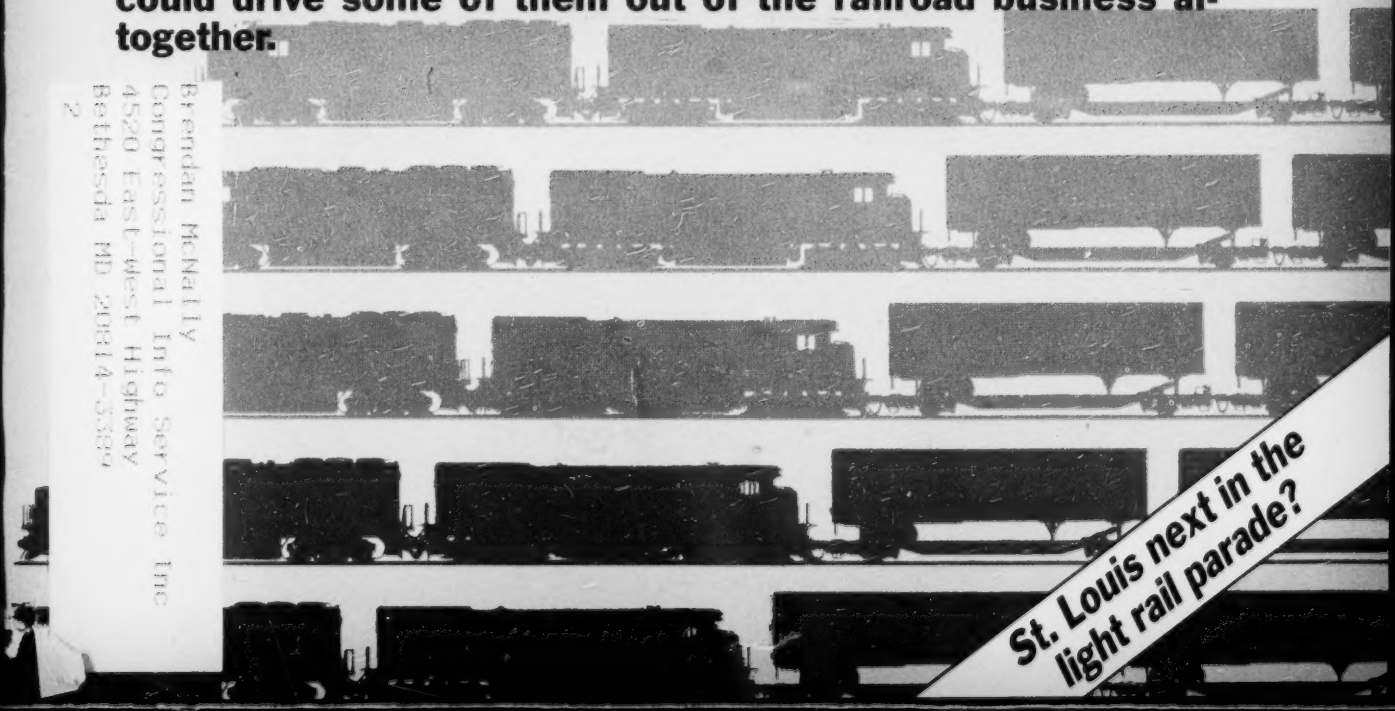
Railway Age

...for the new age of railways

WILL CONGRESS DRIVE RAILROADS OUT OF THE RAILROAD BUSINESS?

Powerful, short-sighted interests are urging Congress to take action that could set off a massive shift of capital from the railroad industry to other businesses, with tragic consequences for all America.

The threat is real. The hour is late. Congress must be made to understand that railroad companies are dead serious when they say that reregulation, on top of a host of other problems, could drive some of them out of the railroad business altogether.



St. Louis next in the light rail parade?

Stephen McNally
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The "Cure" remedy could be a killer ..... p. 38

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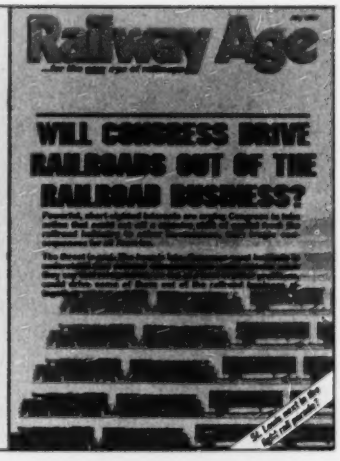
Cover drawing courtesy Sperry Rail Service



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Market Outlook

Capital expenditures

Santa Fe: A 1987 capital program totaling $300 million covers the remanufacture of 65 diesel-electric units, purchase of 90 multi-level auto racks, installation of 235 miles of new and 63 miles of reconditioned cwr, insertion of 1.5 million ties, and surfacing of 5,400 miles of track. Santa Fe's 1986 capital program also amounted to $300 million.

Equipment

Loadcraft Division, Allied Products Corp.: Has received orders valued at $20.5 million for 4,350 intermodal cargo container chassis and chassis frames. The orders came from two leasing firms, Flexivan and TracLease, and five shipping companies: American President Lines, Matson Navigation, Sea-Land, Hapag Lloyd, and NYK.

U.S. Navy: Awarded a contract to Chrome Locomotive for the remanufacture of five locomotives. Chrome was the lowest of five bidders.

XTRA Corp.: Has agreed to purchase—from Fruehauf Corp., Signal Capital Corp., and a third, unnamed company—a fleet of 10,600 intermodal trailers now operated by Availco Systems Inc. The purchase price is about $59 million. XTRA will also assume certain trailer leases with a net current value of $24 million.

Facilities

Amtrak/NYMTA: An agreement between Amtrak and the New York Metropolitan Transportation Authority for joint operation of New York City's Penn Station has cleared the way for a $160-million improvement program. Together, Amtrak and the Long Island Rail Road, an MTA subsidiary, will build a $90-million control center. LIRR will spend $70 million on improvements to the station's lower level, which up to now it has occupied as a month-to-month tenant of Amtrak but in future will occupy on a long-term lease. LIRR has already invested some $200 million in a new 20-acre yard two blocks west of the station which was to go into service June 22. Amtrak, meanwhile, has spent $18 million on upper-level improvements, including new ticket counters and an expanded waiting room.

Conrail: Is spending $20 million to install 83,000 crossties, surface more than 265 miles, and rehabilitate 220 grade crossings on its line between Chicago and Cleveland.

Southern California Rapid Transit District: General Railway Signal is the apparent low bidder, at $32.5 million, for the supply of a Transit Radio System (TRS) that will control a fleet of 100 light rail cars, 5,000 buses, 100 transit police vehicles, 200 transportation vehicles, and 300 maintenance vehicles. The radio/data communications network will operate from eight base stations and will handle such information as vehicle location, passenger counts, mechanical alarms, and emergency alarms. Installation will take two years.

PATH: Directors authorized an $8.1-million project to modify station platforms to permit the lengthening of trains between Newark, N.J., and New York City's World Trade Center from seven cars to eight cars. The project is to be completed by mid-1988.

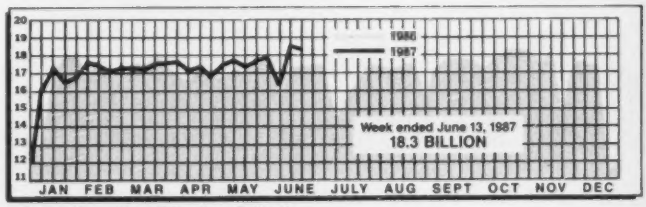
Revenue freight carloadings

Commodity	May 9 week	May 2 week	April 25 week	April 18 week
Grain	29,547	24,851	26,809	26,756
Other farm products	4,210	3,718	4,342	3,997
Metallic ores	18,514	16,775	19,385	15,188
Coal	121,238	99,356	111,146	111,684
Crushed stone, gravel and sand	15,972	12,851	15,757	15,828
Nonmetallic minerals	10,250	9,094	10,688	11,508
Grain mill products	10,949	10,005	11,285	11,028
Food and kindred products	11,088	9,919	10,992	10,876
Primary forest products	11,034	9,740	11,060	10,905
Lumber and wood products except furniture	8,319	8,011	8,647	8,493
Pulp, paper and allied products	12,894	13,070	12,606	12,149
Chemicals and allied products	25,696	24,082	25,723	25,585
Petroleum products	4,772	4,358	4,888	4,981
Stone, clay and glass products	11,551	9,823	11,139	11,349
Coke	5,059	4,777	5,032	5,001
Metals and products	8,784	8,628	9,130	9,131
Motor vehicles and equipment	20,608	17,050	20,360	20,706
Waste and scrap materials	8,605	7,297	8,592	8,597
Forwarder and shipper assn. traffic	2,895	2,296	2,831	2,821
All other carloads	74,963	65,262	76,110	72,873
LCL traffic	96	111	102	82
Total Cars Loaded	**417,044**	**361,074**	**406,624**	**399,538**
% change from previous year	8.3	3.8	3.7	2.4
Estimated revenue ton-miles (billions)	18.5	16.2	17.9	17.8
% change from previous year	9.6	4.7	5.1	5.9

Total:	**1987**	**1987**	**% change**
23 weeks	391.1	383.4	2.0

Rail freight traffic trends

Billion t[illegible]-miles (Estimated)

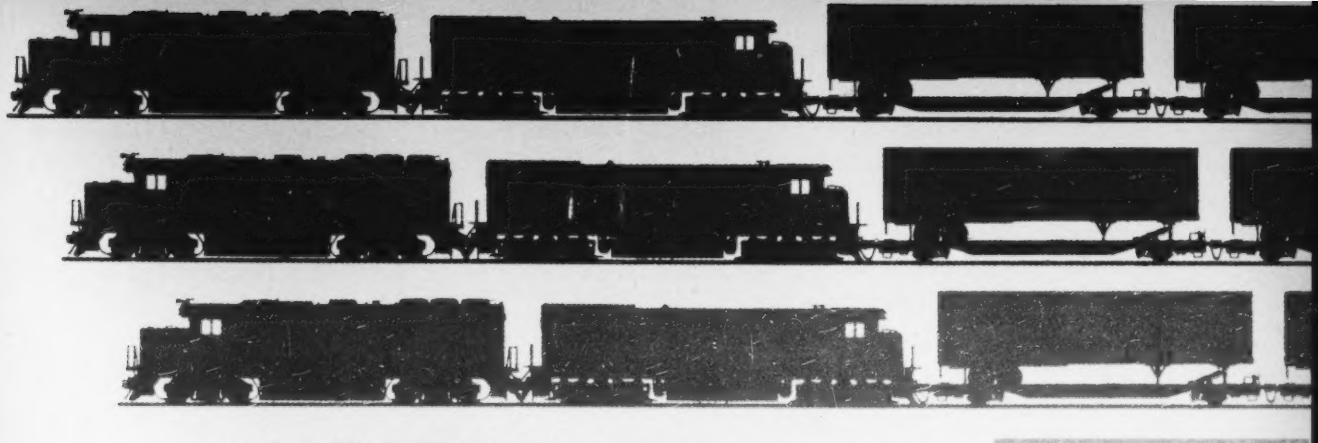


Source: Association of American Railroads

Piggyback loadings

	June 6 week	May 30 week	May 23 week	May 16 week
Trailers/containers	101,504	87,597	101,388	96,196

Cumulative total, 22 weeks		**% change from 1986**
Trailers/containers	2,103,349	2.9



A RAILWAY AGE Special Report

WILL CONGRESS DRIVE RAILROADS OUT OF THE RAILROAD BUSINESS?

A return to the stifling regulatory climate of pre-1980 could cause an already-beleaguered industry to disinvest in its rail network and concentrate on more productive businesses.

By GUS WELTY, Senior Editor

America's railroads today are in a desperate fight for survival.

Lined up against them are powerful and well-financed foes whose only interest is their own self-interest, who would tear the heart out of railroad deregulation, leaving the industry and the nation at the mercy of forces that could undermine a vital part of the American transportation network.

The facts are that neither the railroads nor the Interstate Commerce Commission have abused the partial deregulation granted in the Staggers Rail Act of 1980; that shippers and consumers now enjoy better rail service at a lower cost; that these improvements in service and pricing are in large part due to the changes that have come about through deregulation; and that a return to the regulation that was crippling the industry before 1980 would be disastrous—disastrous ultimately even for those interests who would dangerously weaken the rail industry for the sake of their own short-term gain.

Congressional passage of the grossly-misnamed Consumer Rail Equity Act of 1987 would lead inevitably to disinvestment in the nation's rail network, to more railroad bankruptcies, perhaps to the staggering costs of nationalizing the railroads..

This proposed legislation is the program of Consumers United for Rail Equity, made up mostly of monopoly electric utilities and coal interests. CURE has support from a group called the Procompetitive Rail Steering Committee, made up in part of giant industrial companies whose main interest seems to be in adding to the tremendous power they already have to drive down transportation rates.

But railroads and those truly concerned with sound national transportation policy have more than just this coalition to contend with. Even with the benefits gained from the Staggers Act, the railroads' position is precarious. If they are to continue to serve the nation well, the railroads need changes which truly are in the interest of equity.

Equity demands, for example, that railroads be relieved of a labor-protection burden that only they carry. Equity demands that they be relieved of the weight of an employer-liability law that applies only to them. Equity demands that they not be saddled with tremendous additional costs to fund retirement programs. Equity demands that they be protected, as virtually every other industry is, against the kind of secondary labor boycott that can turn a local labor-management dispute into a nationwide work stoppage. Equity demands that they gain some measure of parity with their major competitors whose payments for maintenance and improvement of their rights-of-way, the nation's highways and its inland waterways system, fall far short of meeting full costs.

Clearly, there is "equity," and then there is equity.

What CURE and its allies propose is, in no way, equitable.

Common sense would dictate that scant attention be devoted by an already-overburdened Congress to proposals such as CURE's which would ill-serve the nation by re-creating failed policy.

Reregulation proposals did not survive in the 99th Congress.

But its proponents are back, in the 100th Congress, hammering harder than ever.

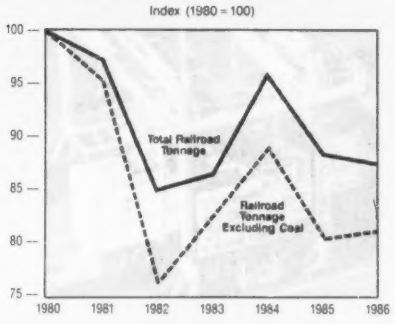
Common sense must prevail. Congress must understand that what CURE wants is not a cure, that there is in fact no disease. And that what CURE wants would be a prescription for catastrophe.

The threat *is* real.

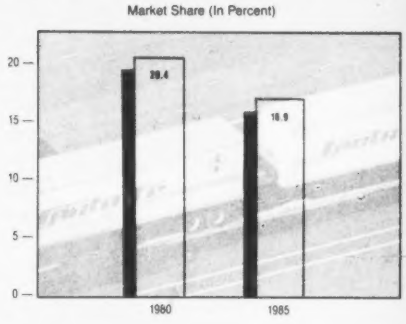
And the hour *is* late.

Railroad operating revenue

Railroad tonnage originated



Railroad share of freight revenues



THE "CURE" REMEDY COULD BE A KILLER

Even with the pricing and other freedoms they won with Staggers, railroads have seen traffic and earnings decline. Reregulation could put them on a fast track to nationalization.

In the name of "fine-tuning," the long-overdue reforms in national transportation policy that came about through the Staggers Act could be destroyed.

In the name of "fine-tuning" of the Act, the railroad industry could be destroyed as an industry operating in the private sector.

In the name of "fine-tuning" of Staggers, a small group of transportation users, led by electric utility and coal interests, would sacrifice, for their own narrow interest, all the benefits to the rail industry, to consumers and to the great majority of transportation users that have stemmed from the partial deregulation of rail transportation.

Ironically, in the long run even those demanding a rollback to the days of pre-Staggers regulation would suffer. A rollback would bring, without any doubt, the rapid deterioration of the railroads' financial position, followed by deferral of maintenance, abandonment of thousands more miles of railroad line, further reductions in employment, more visits by railroads to bankruptcy courts, and perhaps the nationalization of the industry.

As with any major change in policy and practice, the change brought about by Staggers—after almost a century of total regulation—brought its share of problems.

Most of those problems have been resolved, many through direct negotiation and some through actions of the Interstate Commerce Commission. Negotiation brought agreement between the railroads and such major shipper groups as the National Industrial Transportation League and the Chemical Manufacturers Association. The ICC, meanwhile, was addressing issues concerning rail rates, revenue adequacy, competitive access. A number of other issues now before the Congress have already been handled through the regulatory process as well as through the negotiating process. In several key cases involving coal movements, the Commission has ordered payment of reparations where it rejected rate levels after investigation.

But with the electric utility and coal interests making up Consumers United for Rail Equity, there has been no settlement. There has not even been negotiation, because no matter how hard they try—and they have tried hard—railroads have not been able to get those interests to the bargaining table. And so the clamor for ill-advised legislation continues.

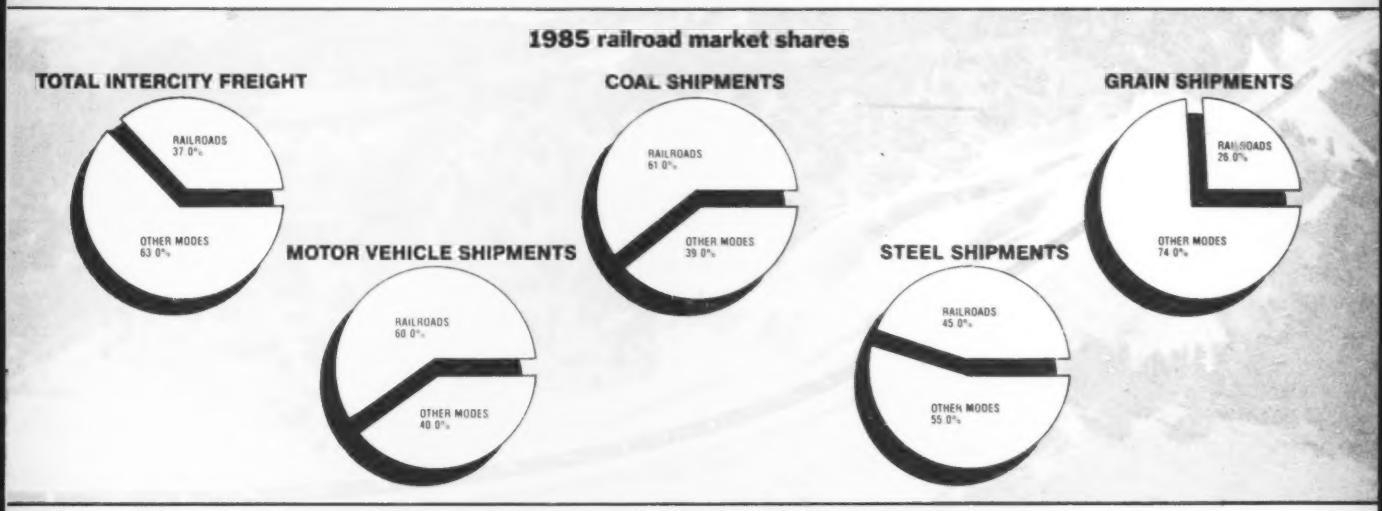
• **How Staggers has worked.** In passing the Staggers Act seven years ago, Congress had specific goals in mind—among them, to reform federal regulatory policy so as to preserve a safe, adequate, economical, efficient and financially stable rail system; to help the industry to remain viable in the private sector; to provide a regulatory process that would balance the needs of railroads, shippers and the public; and to help with rehabilitation and financing of a rail network that could meet the demands of interstate commerce and the national defense.

As ICC Chairman Heather J. Gradison recently testified, these goals reflected Congressional concern "that a continuation of the *status quo ante* would have resulted in the loss of a viable private-sector rail system. Equally important, the Act sought reform of regulation, both as to process and substance. A balanced climate was the goal. Railroads were to have the flexibility and incentive to perform efficiently, but the Commission was to insure that captive shippers were not abused by the new freedom."

Measured by these purposes, Gradison declared, "There is little question that the Staggers Act is working successfully."

Federal Railroad Administrator John H. Riley is equally strong in his support of Staggers and what it has made possible.

Said Riley: "The theme that should come through clearly from an oversight of the Staggers experience is that the railroad industry has not abused its pricing and marketing opportunities, and because of those



opportunities has become stable while providing better shipper service. It should also be clear that while no system dependent on human judgments will ever be flawless, allowing the commercial relationship between shippers and carriers to be shaped by market forces produces better results, for shippers and carriers, than a system which delegates the major share of those decisions to a board of political appointees."

In the end, he said, "Perhaps the most significant accomplishment of Staggers lies in the fact that it has forced shippers and carriers to work directly with one another, to address their own problems and develop their own compromises. The success of that system can be measured in 50,000 contracts and in the historic agreements between the major shippers associations and the Association of American Railroads on difficult issues such as joint rates, and product and geographic competition. In contrast, a system in which ultimate pricing and contract decisions must be referred to an appointed board of arbitrators is a system which creates incentives for the parties to defer, rather than resolve, the issues of greatest importance in their relationship."

Now, Riley declared, "Proposals such as the CURE bill directly threaten much of what the Act has achieved."

What kind of industry is the railroad industry today, though? And what would proposals such as the CURE bill do to it?

First, the railroad industry today is in fact a more stable industry. Where the 1970s were marred by one rail bankruptcy after another, stretching from the Eastern Seaboard to the Upper Midwest, railroads came through the severe recession of the early 1980s without another failure.

• **What CURE doesn't tell you.** But as AAR President William H. Dempsey points out, the resiliency of the industry "must not be overstated. America's freight railroads still face deep-seated problems. The profitability of the industry has been steadily declining. When adjusted for inflation, railroad operating earnings have dropped nearly one-third between 1980 and 1986. The industry remains unable to earn its cost of capital. In fact, railroad return on investment in 1986 was actually lower than the level recorded for 1980 when Congress authorized partial deregulation."

Return on investment last year was a mere 3.5%, down from 4.2% in 1980. ICC-measured cost of capital, by contrast, has been in double-digit percentages, running as high as 17.7% in 1982 and estimated at 11.9% for last year. Railroad return on equity, meanwhile, peaked at 10.5% in 1981 and slumped to less than 2.1% in 1986.

With fierce competition from motor and water carriers and with "traditional" rail freight markets shrinking, traffic levels have been dropping along with rates. Revenue carloadings, 22.6 million in 1980, were 19.5 million last year. Tonnage originated, 1.49 billion in 1980, added up to just 1.31 billion last year.

Freight revenues, $25.1 billion in 1986, were down from $26.2 billion the year Staggers was passed, and when inflation is factored in, last year's "real" revenues were just $18.9 billion. After allowing for inflation, on a 1980 = 100 basis, the index of "real" revenue per ton-mile fell all the way to 76.1 in 1986.

Rate charts, meanwhile, bear out the contention by the railroads, the FRA and the ICC that the rate freedoms granted under Staggers have not been abused. By FRA's calculations, for example, between 1975 and 1980 and after accounting for inflation, rail rates went up by an overall average of 3% per year. Between 1980 and 1985, rail rates declined by an average of 0.6% per year. And the decline between the end of 1985 and Jan. 1 of this year was 2.4%.

Interestingly, in the context of the rate debate involving railroads and the coal and utility interests, for the period October 1980 to October 1986, industry calculations show "real" railroad coal rates dropping by 3.7% while "real" utility rates were rising by 7.9%.

• **19th Century solutions won't work.** In 1987, the 100th anniversary of the passage of the Interstate Commerce Act, CURE and its allies would turn the calendar back to that earlier era when railroads were the most tightly regulated of industries.

Railroads then were regarded as monopolies, as instruments of social policy. But regulated monopolies such as electric utilities are guaranteed a rate of return roughly equal to their cost of capital. Railroads never had that guarantee, nor have they had anything close to monopoly position for close to a half-century. As for the social-policy factor, what that amounted to was a requirement, explicit or implicit, that rail transportation and railroad companies in effect subsidize the users. That may work for a government-owned-and-operated enterprise where the government is willing to absorb losses and cover them from tax dollars. But it does not work for an enterprise owned and operated in the private sector, a fact that the Congress recognized in 1980.

All Staggers really did was take account of the principle that railroads should be treated more like other privately-owned businesses with the opportunities for survival that other businesses have, including rail customers.

As the railroads see it, "The predictable consequence of the CURE bill's attack on this economically-sound regulatory principle and the imperative it established for adequate railroad earnings would be the demise of the privately-owned rail system."

- **What CURE wants.** The CURE legislation has eight main features.

Market dominance. CURE would make subject to regulation an indeterminate number of rail rates in competitive markets by excluding geographic and product competition from the determination as to whether effective competition exists, which is the jurisdictional requirement covering the ICC's regulation of maximum reasonable rates. CURE's demands here would work in tandem with another demand related to exercise of the ICC's exemption authority.

Rate reasonableness. Here, the bill would shift the burden of proof to the carrier. It would minimize the importance of a carrier's need to earn adequate revenues, something clearly recognized by the Congress in the Staggers Act. Further, the CURE bill would create a virtual presumption as to the unreasonableness of rates above a revenue-to-variable-cost percentage of 180. More troublesome, any railroad would be prevented from raising a rate above the 180% threshold unless it could first prove all rates below the threshold were as high as possible.

In the short term, high-demand rail shippers would see rates reduced, low-demand shippers would not be affected since a rate increase would merely divert traffic, and moderate-demand shippers would see higher rates until such time as they too could divert traffic to other modes. Railroads, looking at an economically-bleak future, would look to self-preservation, to retrenchment. Low-demand shippers would lose service because railroads would concentrate available resources in high-density corridors. And as the contribution to fixed cost from low- and moderate-demand traffic dropped, inevitably the rates on high-demand traffic would go up, and rapidly.

Differential pricing, in short, is as essential to the rail industry as it is to any other industry. If the pricing freedoms allowed under Staggers had not been in effect in 1986, for example, and if an absolute 180% ceiling had been in place on all traffic, railroads would have had no profit at all. Railroads would have had a deficit of $77 million.

Rail Cost Adjustment Factor. CURE wants the Congress to require a productivity adjustment to RCAF retroactive to 1980. The ICC is now attempting to determine whether it is, in fact, feasible to measure productivity accurately; and if it is, just how much adjustment should be made for gains and losses. Thus, the Congress is being asked to legislate where the consequences of that legislation are unknown. Further, by turning the adjustment back to 1980, there is the potential for creating a deficit in the RCAF that would bar railroads from making inflationary cost adjustments to rates under the index process for years. As the railroads point out, "The revenue consequences could be disastrous."

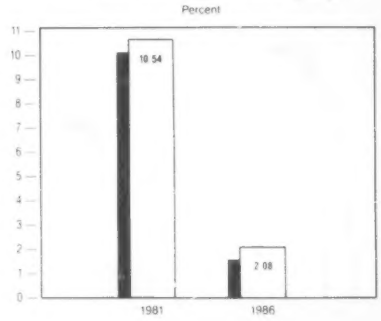
Determining revenue adequacy. CURE's demand on the Congress has four main parts. It would restate Staggers to call for a "reasonable" return on capital rather than an "economic" one. It would reduce the railroad asset base from the level that was calculated in the industry's transition from retirement-replacement-betterment accounting to depreciation accounting. It would require the use of embedded cost of debt rather than current cost. And it would require an annual revenue-adequacy proceeding for each and every rail carrier.

Railroads see two major effects coming from these provisions, both of them bad: "First, they severely reduce the allowable returns and, hence, the allowable rate levels. Second, they create a monstrous regulatory process which would be far beyond the Commission's present capacity to manage and which would divert the resources of each railroad from the provision of rail service to the provision of evidence and legal briefs."

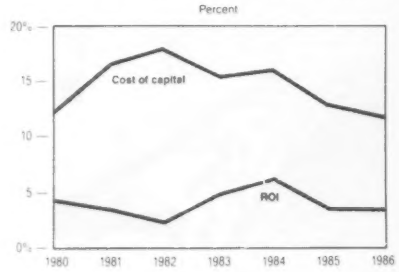
In the revenue-adequacy debate, some lawmakers with, perhaps, a greater understanding of law than of economics, challenge railroad and ICC findings of revenue-inadequacy, noting the bank balances of some railroad parent companies. But revenue adequacy is a measure of net return on investment as compared to the cost of capital, as ICC Chairman Gradison pointed out, and no railroad has a rate of return equal to the cost of debt.

Exemption authority. The ICC has been able to grant general exemptions and has, for example, on such traffic as intermodal and the movement of fresh fruits and vegetables while it retained jurisdiction to correct any abuses that might develop. Under CURE's proposal, market dominance would be more narrowly defined and the Commission would be prohibited from granting any exemption for traffic where a railroad has market dominance. Under CURE's proposal, too, the ICC would be required to make separate determinations in

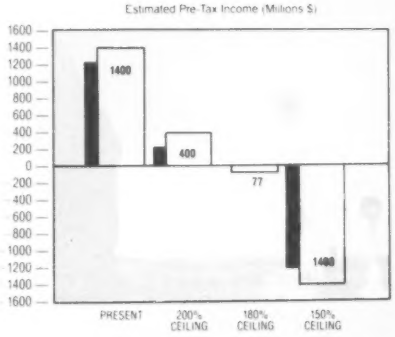
Railroad return on equity



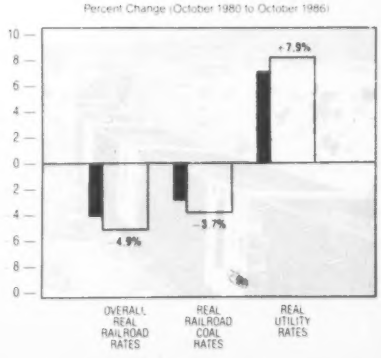
Return on investment vs cost of capital



Enactment of maximum revenue/variable cost ceilings could significantly reduce the railroad industry's profits



Railroad and utility rate trends



every market alleged by any "person" to show rail dominance.

What this could mean is that even if on a total basis a commodity was moving 90% by motor carrier and only 10% by rail in, say, 300 markets, the Commission could be required to examine the competitive conditions in each market before it could grant an exemption because some "person" could allege market dominance in every one of those markets. Thus, exemptions would be governed by the exception and not by the rule.

Further, by taking exempt rates and practices out from under ICC jurisdiction and discretion, exempt rates and practices would become subject to the common law of each state, producing, the railroads say, "a legal morass worse than any form of continued federal regulation. Like the revenue-adequacy changes, this would be a bonanza for litigation-prone shippers and their lawyers. For the railroads, it would be another regulatory rat-hole into which they would have to pour resources otherwise available to market service and run trains."

Enhancement of competition. The CURE bill would have the effect of compelling the establishment of joint or proportional rates at revenue-to-variable-cost ratios no higher than on competing routes. It would compel the granting of terminal trackage rights and require reciprocal switching arrangements where necessary to provide "alternative" competitive rail service. It would create a presumption that switching rates should not exceed 180% of variable cost.

This proposal would require rail-to-rail competition to every market in an attempt to legislate an alternative to maximum rate regulation. This is, apparently, the carrot in the CURE bill that has tempted major industries represented in the Procompetitive Rail Steering Committee. But, the railroads say, the obvious effect of these provisions "would be to eliminate much of the existing differential pricing and thereby preclude any railroad from obtaining revenues sufficient to cover its full costs. That condition can only lead ultimately to bankruptcy."

Abandonment procedures. Here, CURE wants changes that would stretch out the abandonment process and raise the cost to a railroad by requiring new cost-gathering and hearing procedures. As rail costs went up, they would have to be passed along, so far as possible, to shippers using more profitable lines.

State authority. CURE would eliminate the Staggers requirement that states apply federal standards regarding intrastate rail traffic. It would reduce the ICC to a position where it could only make appellate review of state actions and it would put no time limits on those state actions. The interstate shipper would thus be required to subsidize the intrastate shipper, just as he did pre-Staggers. Before Staggers, the railroads say, that subsidy amounted to about $500 million per year because of holddowns on intrastate rates. Under the CURE proposal, with no time limits on state action, "that subsidy level would be increased substantially."

- **The stakes are high.** As hearings on Staggers oversight, on the financial condition of the rail industry and on the CURE demands were continuing, railroads were making it clear that their private-sector viability, their continued investment in railroad improvements and in fact their continuation in the railroad business depend upon their ability to improve productivity, improve service and show a profit from serving a freer marketplace.

All of those things depend upon the preservation of the Staggers Act at the very least.

Union Pacific has talked about the need to meet the needs of the marketplace, about the need to earn adequate financial returns from doing that job. The alternative, UP says, is to slowly go out of business "and it is not our intent to slowly exit the railroad business. We have been investing $500 million to $600 million a year on the railroad for most of the past decade...and we continue to plan substantial capital investments for the future." But, says Chairman and Chief Executive Officer Michael Walsh, "What I'm telling our people is that we have to substantially increase our earnings in order to justify the investments we're making, or else we have to make another decision—a decision we don't want to make—and that is to slowly exit the railroad business. I don't see any other choice."

Officers of Norfolk Southern are saying much the same thing, that while the company wants to stay in the railroad business, if it can't meet the demands of the marketplace and do so in viable fashion, then the company may have to invest its money in other places.

Then there is Conrail.

In the early 1970s, the rail system in the Northeast was in tatters. Conrail came into being and the federal government poured money into its rehabilitation. Still, there were a lot of no-confidence votes about Conrail's future.

Earlier this year, the federal government netted about $1.6 billion through a public offering of stock in Conrail. Essential rail service in the Northeast has been maintained, jobs have been maintained. Conrail is viable.

But what about the CURE bill and Conrail?

Chairman and Chief Executive Officer L. Stanley Crane believes that enactment of the CURE legislation "would be disastrous. That's the thing I fear more than anything else. I'm not sure that Conrail could remain viable..."

In no way, he says, is the CURE bill as written "fine-tuning." And, he says, if the bill does progress, "everybody's going to have something else to throw in. It would be a disaster for the railroad industry, and the railroad industry might well go bankrupt because of it."■

Annual changes in railroad rates after inflation before and after the Staggers Act

	October 1975 - October 1980	October 1980 - October 1985	December 1985 - December 1986
All commodities	3.0%	−0.6%	−2.4%
Farm products	2.8	−0.6	−3.6
Coal	3.4	−0.4	−2.5
Chemicals	2.5	−0.6	−2.1
Primary metals	2.1	−1.0	−2.5
Automobiles and parts	1.7	−1.6	−2.1

WHAT CONGRESS CAN DO TO UNSTACK THE CARDS

Railroads urgently need both the action—and the inaction—of Congress as they strive to trim down to fighting weight and compete with other modes on a more even playing field.

Even if the threat of reregulation did not exist, the relative railroad prosperity of the 1980s has to be regarded as fragile.

It is a prosperity endangered by other legislation, existing law and proposed law with application only to railroads. It is a prosperity that could crumble quickly unless the Congress acts to remove present inequities and shuns enactment of new ones.

Make no mistake: Given current business trends and competitive realities, even the most astute railroad management is severely limited in its ability to improve revenue-cost ratios. Costly inequities written into law only make the constraints tighter.

Among the legislative issues that must be confronted:

Labor protection. Only railroads are required by federal statute to guarantee job protection, and the costs have been enormous. Now, there are proposals to extend protection where it is not mandated, to sales of lines that would otherwise be abandoned. The regional-railroad movement preserves both service and jobs. A labor-protection law would cripple it.

In a national work force of close to 120 million persons, the problems of rail labor are not unique. What is unique is statutory protection of employees adversely affected by various transactions affecting employment, protection that guarantees 100% of pay for up to six years. In one recent year, this legal inequity cost just seven railroads well over $330 million, including severance payments made for buy-out of the obligation.

Logic would say that the law covering railroads should be changed to bring railroads in line with other industry. Instead, labor wants protection extended to line sales where the ICC's view has been that preservation of service outweighs labor's self-interest as reflected in demands for protection.

Secondary picketing. Forty years ago, the Congress outlawed secondary boycotts by labor in all industries except those covered by the Railway Labor Act. For railroads, this was a non-issue until last year, when a union turned a local strike in Maine into what could have resulted in a nationwide walkout. The U.S. Supreme Court later ruled that what the union did was legal because it had never been specifically prohibited.

This is another situation where there is no legitimate basis for treating the railroad industry differently. With the highest court's decision, rail labor is free to carry a strike anywhere, disrupting rail service and doing harm not just to railroads who are not party to the dispute but also to the nation as a whole.

As AAR President William H. Dempsey points out, in the absence of corrective legislation, unions will be able "in countless future local disputes to use secondary job actions to create or threaten to create national emergencies requiring the intervention of emergency boards and, potentially, the Congress to legislate collective bargaining settlements. Again, the Congress should ask why an action that is explicitly denied" to others in the work force continues to be available to railroad employees.

The Federal Employer Liability Act. Yet another example of railroads-only legislation, FELA maintains an adversarial and fault-based system for dealing with job-related injuries and illnesses. Other industry comes under no-fault workers' compensation systems. FELA is costly. More than that, it is inequitable for affected employees. It serves the best interest of neither the railroad nor the employee.

In the case of job-related injury or illness, FELA is clearly counter to society's goal of providing fair compensation. In effect, it is a system-by-whim, in which excessive awards may be made in some cases and inadequate awards in others.

Administrative and legal costs are high. And only the tort system can explain what has happened to awards in the '80s. Since 1979, rail employment has gone down by about 40%, but payout under FELA has gone up by about 97%, from less than $300 million to an estimated $585 million last year.

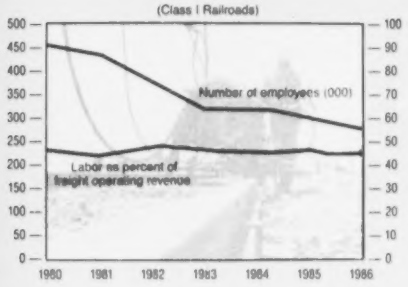
Railroad Retirement. When you add up contributions of employers and employees, 33.3% of taxable payroll is going into the Railroad Retirement fund—and yet the fund is once again facing insolvency. Fur-

Railroad plant rationalization

Year	Class I Railroad Mileage (operated)	New Railroads Started Number	New Railroads Started Mileage
1980	178,629	9	920
1981	176,466	9	494
1982	174,034	24	1,630
1983	170,938	22	514
1984	166,811	26	1,664
1985	160,737	29	2,385
1986	156,629	30	3,496
Totals		149	11,103

Note: During the 1980's, five railroads were declassified from the Class I status: Long Island with 681 miles; B&LE 429 miles, P&LE 412 miles, DM&IR 735 miles and EJ&E 175 miles. Thus, of the 22,000 reduction in Class I miles from 1980 to 1986, 2,432 were due to declassifications, leaving a net reduction of 19,568 miles. Of this amount, 11,103 were spun-off to local and regional railroads.

Number of railroad employees compared with labor cost as percent of freight operating revenue



ther tax increases are being proposed.

Currently, railroads send 21.9% of taxable payroll to the fund, and the employee share is 11.4%. Actuarial estimates have led to proposals for an additional tax amounting to 3%, but even that may not be enough to restore solvency.

The underlying problem is that the ratio of active employees to retirees continues to worsen, standing now at one worker to three retirees. And, while current and proposed tax levels are on a pay-as-you-go basis, there are also proposals to privatize the system and apply more stringent funding requirements. Those proposals could quadruple the additional funds needed.

Future benefit levels as well as tax levels will have to be considered. Says the AAR's Dempsey: "It is clear...that a succesful solution cannot be achieved simply by increasing the railroads' contribution to the fund without immediately threatening the solvency of many railroads."

Railroad safety. Improvements in the rail safety record during the '80s have been continuous and dramatic, the envy of many another industry.

According to Federal Railroad Administration records, this is the rail industry's performance, 1979-86: Accidents, down 70.9%; the accident rate, down 62.8%; accidents attributable to track and equipment causes, down 75.2%; workplace injuries, down 66.5%; grade-crossing accidents, down 48.9%.

There is, of course, a human concern for safety. There is also an economic factor to be considered, concern for safety balanced by concern about non-productive regulation.

As the AAR's Dempsey puts it: "We do not live in a risk-free society, nor could we afford the cost of attempting to do so. Just as ignoring safety results in needless costs, so does an excess of safety regulation. At the margin, the cost of a particular increment of safety may not be worth the benefit. It is for this reason that new proposed safety regulations deserve the most serious scrutiny by the Congress, rail management and rail labor."

Antitrust legislation. Pending proposals outside the scope of the CURE proposals would put railroads in yet another situation where it is "railroads alone."

The legislation at issue would amend the Clayton Act to repeal the protection from treble damage under antitrust law which rail rates filed with the ICC now have under a judicial doctrine of long standing. In addition, the proposed legislation would remove the protection against private injunctive actions against railroads which Section 16 of the Act now provides to all common carriers with regard to any matter subject to regulation by the Commission.

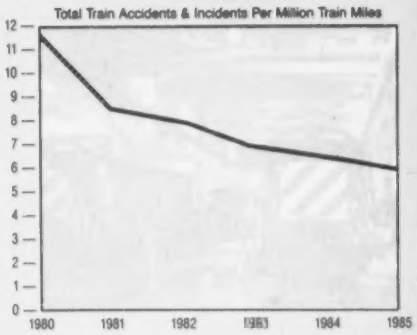
In each case, the proposed repeals would apply only to railroads and not to all other regulated industries or to all other common carriers regulated by the ICC. Thus, the railroads argue, the proposals not only create a dual regulatory system by overlaying the Interstate Commerce Act with the antitrust laws with respect to the same matters but also, by singling out the railroads, "do so in a patently discriminatory manner."

Competitive equity. It is a fact that railroads pay 100% of the cost of maintaining and improving their roadway and track. It is also a fact that the major rail competitors, motor carriers and barge lines, do not pay 100% of what may be regarded as their fair share of maintenance/improvement cost for their rights-of-way.

The 1982 Federal Highway Cost Allocation Study, recently updated for 1985, held that trucks of 75,000 pounds gross weight or more paid just 65% of their cost responsibility. Rail-competitive trucks, logically, pay less since they travel at greater loaded weights and run up high annual mileages. Using the methodology based on the '82 study, the AAR estimates that rail-competitive trucks "pay only about 50% of their cost responsibility."

Heavy trucks pay only a portion of their total cost responsibility

Railroad safety has significantly improved



By AAR estimates, based on 1985 and updating the cost-allocation numbers, heavy trucks owed $1,845 million and paid $1,206.6 million, leaving a gap of $638.4 million, a gap that "is reflected in lower truck rates and places the railroads at a serious competitive disadvantage."

Even-less-equitable numbers show up so far as water carriers are concerned. Barge-industry user-charge payments run about $50 million per year. But the U.S. Army Corps of Engineers spends about $575 million per year on shallow-draft navigation projects and, the AAR says, "the 10-year, phased-in increase in barge user charges passed last year will make only a small difference. Even by 1995, when the barge user charge is fully phased-in, the barge industry will be covering no more than 15% of federal spending on its behalf."

If the truck and barge subsidies are fully reflected in reduced rates, the railroads contend, the competitive effect on rail rates is to reduce rail revenues by more than $1 billion per year.

What all of this means, the AAR's Dempsey declares, is that "the railroad industry is being subjected to unnecessary costs or put at a cost disadvantage in the marketplace. If the Congress is to stay the course it set in the Staggers Act—'to assist the rail system to remain viable in the private sector of the economy'—it has to remove the statutory obstructions which lie in that course and to avoid erecting any others." ■

REVENUES AND EXPENSES OF RAILWAYS

Fourth quarter figures of calendar year 1986

(Dollar figures are stated in thousands, i.e., with last three digits omitted)

		Operating revenues				Operating expenses										Income after fixed charges		1986 Net Ry. operating income	Net income	
						Way & structures			Equipment					Operating Ratio							
		Freight	Other	Total 1986	Total 1985	Total 1986	Total 1985	1986 Deprec.	Total 1986	Total 1985	1986 Deprec.	Total 1986	Total 1985	1986	1985	1986	1985		1986	1985
Amtrak	3 mos.	—	213,916	213,916	203,007	56,644	49,036	19,317	98,577	91,810	21,696	388,746	381,675	181.72	188.01	(171,165)	(175,126)	(174,830)	(171,165)	(175,126)
	12 mos.	—	849,566	849,566	823,999	215,566	232,135	72,198	399,463	378,026	94,684	1,567,432	1,582,069	184.49	191.99	(698,220)	(737,180)	(717,866)	(698,220)	(737,180)
Atchison, Topeka & Santa Fe	3 mos.	476,594	9,791	486,385	518,603	189,250	83,531	111,270	147,182	121,549	67,198	731,331	481,375	150.36	92.82	(237,290)	39,756	(139,495)	(132,073)	30,729
	12 mos.	1,910,188	41,466	1,951,654	2,144,360	447,215	339,745	160,572	496,398	500,746	136,098	2,084,930	1,989,150	106.82	92.76	(143,088)	162,209	(51,946)	(62,892)	125,792
Boston & Maine	3 mos.	22,576	1,275	23,851	28,037	2,729	3,749	447	8,444	9,414	(22)	24,381	28,134	102.22	100.34	4,946	1,756	(456)	4,946	1,756
	12 mos.	80,869	4,334	85,203	115,708	12,165	15,917	1,773	32,114	37,513	218	91,768	114,557	107.70	99.00	3,565	4,286	(6,269)	3,565	4,286
Burlington Northern	3 mos.	884,641	21,649	906,290	980,907	193,085	148,482	56,974	204,034	179,776	19,623	848,681	808,113	93.64	82.38	95,987	179,279	(6,670)	31,695	110,679
	12 mos.	3,647,645	85,336	3,732,981	4,040,540	1,033,126	613,208	556,194	801,285	729,087	101,147	3,628,211	3,261,664	97.19	80.72	122,026	809,130	63,924	(254,710)	488,510
Chicago & North Western	3 mos.	168,682	25,162	193,844	205,262	37,288	39,687	6,480	45,351	50,599	3,462	186,235	227,266	96.07	110.71	14,214	(25,629)	7,762	14,414	(21,404)
	12 mos.	722,156	101,430	823,586	823,661	156,227	153,210	25,881	194,129	196,624	13,891	788,400	825,557	95.72	100.23	36,583	(35,906)	34,476	35,958	(26,097)
Conrail	3 mos.	753,678	24,103	777,781	770,186	113,747	104,912	26,416	176,169	173,329	36,303	673,723	670,329	86.62	87.03	119,110	112,086	69,140	119,110	112,086
	12 mos.	2,990,748	97,377	3,088,125	3,153,648	449,875	454,978	100,283	701,130	698,106	141,415	2,693,081	2,763,831	87.20	87.63	431,091	441,809	279,693	431,091	441,809
CSX	3 mos.	1,092,278	42,791	1,135,069	1,168,561	152,618	390,233	39,746	313,752	453,061	46,061	1,018,697	1,797,558	89.74	153.82	153,467	(681,714)	41,229	78,831	(357,521)
	12 mos.	4,382,157	146,692	4,528,849	4,772,575	616,826	897,324	15,221	1,186,689	1,330,910	149,755	3,980,910	4,953,423	87.90	103.78	543,955	(251,752)	342,930	329,310	(73,759)
Delaware & Hudson	3 mos.	16,726	601	17,329	27,325	4,397	5,146	25	7,273	9,061	113	23,539	28,542	135.83	104.45	(5,405)	(1,102)	(6,197)	(5,405)	(1,102)
	12 mos.	78,685	1,696	80,331	109,340	17,287	19,216	1,161	30,489	33,335	506	92,138	112,826	114.62	102.90	(13,447)	(3,559)	(11,705)	(13,447)	(3,559)
Denver & Rio Grande Western	3 mos.	59,670	1,063	60,733	77,491	11,807	12,390	3,424	12,035	13,914	3,228	57,339	67,692	94.41	87.35	7,846	11,837	1,908	6,234	6,929
	12 mos.	280,799	4,474	285,273	325,463	47,801	50,369	13,946	56,060	59,458	13,157	253,074	287,134	88.71	88.22	37,579	39,416	17,910	22,731	24,051
Elgin, Joliet & Eastern	3 mos.	N.A.	N.A.	N.A.	N.A.	N.A.	N.A.	N.A.	N.A.	N.A.	N.A.	N.A.	N.A.	N.A.	N.A.	N.A.	N.A.	N.A.	N.A.	N.A.
	12 mos.																			
Florida East Coast	3 mos.	33,690	922	34,612	31,589	3,122	3,785	1,262	4,536	5,062	1,305	23,845	22,774	68.89	72.09	18,067	10,823	4,985	12,285	6,543
	12 mos.	118,039	3,138	121,177	117,788	16,666	18,013	4,946	19,574	21,762	5,073	91,002	91,441	75.09	77.63	44,256	40,695	11,360	25,441	23,632

Grand Trunk Western	**3 mos.**	**75,667**	**3,267**	**78,934**	**87,565**	**12,154**	**11,276**	**1,703**	**23,568**	**17,435**	**6,739**	**102,278**	**65,801**	**129.57**	**97.98**	**(24,302)**	**1,284**	**(21,497)**	**(23,681)**	**2,235**
	12 mos.	**308,519**	**14,511**	**323,030**	**342,947**	**41,642**	**42,674**	**6,779**	**80,088**	**71,072**	**11,581**	**353,521**	**336,118**	**109.43**	**96.59**	**(19,643)**	**951**	**(26,504)**	**(18,446)**	**6,130**
Illinois Central Gulf	3 mos.	129,062	17,103	146,180	208,078	19,390	26,355	8,621	47,956	59,634	1,574	136,330	196,732	93.26	94.54	43,567	20,152	4,302	38,181	16,903
	12 mos.	608,087	71,401	679,488	880,518	74,982	115,202	9,055	436,744	261,530	136,394	1,028,626	836,747	151.38	95.02	(330,390)	36,840	(190,080)	(171,674)	29,968
Kansas City Southern	**3 mos.**	**72,434**	**3,223**	**75,657**	**75,540**	**30,628**	**13,009**	**17,866**	**54,875**	**16,086**	**43,307**	**119,613**	**64,602**	**158.09**	**85.52**	**(42,194)**	**9,288**	**(23,602)**	**(22,106)**	**5,534**
	12 mos.	**282,116**	**13,796**	**299,912**	**316,704**	**69,520**	**48,682**	**30,377**	**102,748**	**68,982**	**58,870**	**307,322**	**270,164**	**102.47**	**85.30**	**(10,276)**	**39,397**	**585**	**(2,982)**	**23,792**
Missouri-Kansas-Texas	3 mos.	53,918	2,209	56,127	57,656	11,385	10,152	2,875	14,655	13,148	1,854	56,284	57,412	100.27	99.57	2,327	(4,108)	101	3,671	(3,935)
	12 mos.	222,083	10,612	232,695	263,102	44,443	49,311	11,548	58,669	62,137	7,434	227,435	251,483	97.73	95.58	6,781	(54)	6,282	24,662	(5,681)
Norfolk & Western	**3 mos.**	**398,052**	**16,395**	**414,447**	**434,026**	**64,241**	**65,237**	**12,656**	**86,855**	**88,379**	**14,241**	**347,609**	**352,664**	**83.87**	**81.25**	**154,115**	**102,861**	**11,265**	**36,003**	**63,359**
	12 mos.	**1,577,192**	**62,752**	**1,639,944**	**1,720,856**	**257,156**	**249,728**	**48,824**	**342,031**	**348,335**	**56,990**	**1,331,779**	**1,365,983**	**81.20**	**79.37**	**472,910**	**468,550**	**127,477**	**290,050**	**281,306**
St. Louis Southwestern	3 mos.	91,198	1,829	93,027	95,336	64,019	16,444	50,855	58,296	21,735	44,296	180,554	85,743	194.08	89.93	(81,697)	10,528	(49,760)	(43,930)	7,698
	12 mos.	354,864	5,767	360,631	390,086	107,263	59,773	65,055	120,472	98,626	59,981	423,570	362,228	117.45	92.85	(54,752)	31,813	(34,665)	(26,478)	21,229
Soo Line	**3 mos.**	**141,709**	**4,962**	**146,671**	**157,131**	**32,329**	**34,152**	**7,580**	**53,374**	**41,081**	**16,301**	**216,015**	**159,582**	**147.27**	**101.55**	**(68,108)**	**6,572**	**(35,727)**	**(34,945)**	**4,576**
	12 mos.	**586,261**	**20,015**	**606,276**	**600,373**	**125,684**	**124,691**	**29,670**	**167,163**	**151,848**	**26,705**	**674,412**	**597,922**	**111.23**	**99.59**	**(72,736)**	**(10,646)**	**(28,234)**	**(34,955)**	**(2,056)**
Southern Pacific	3 mos.	446,807	18,388	465,195	483,245	286,588	64,080	191,579	205,958	132,253	93,532	944,060	486,523	202.93	100.67	(499,997)	45,955	(276,197)	(297,690)	61,802
	12 mos.	1,836,389	72,626	1,909,015	2,053,880	497,635	270,290	265,594	599,541	565,914	155,082	2,426,668	2,064,407	127.11	100.51	(477,847)	89,546	(292,103)	(254,258)	116,976
Southern	**3 mos.**	**401,169**	**8,252**	**409,421**	**420,014**	**63,496**	**52,876**	**17,567**	**80,344**	**82,677**	**20,731**	**341,768**	**334,528**	**83.47**	**79.64**	**82,447**	**90,361**	**36,066**	**44,299**	**52,736**
	12 mos.	**1,641,295**	**36,989**	**1,678,284**	**1,704,338**	**251,256**	**238,694**	**68,558**	**337,575**	**350,514**	**80,117**	**1,324,532**	**1,365,735**	**78.92**	**80.13**	**362,746**	**341,018**	**216,835**	**217,199**	**207,687**
Union Pacific	3 mos.	924,980	19,864	944,844	924,733	106,482	120,647	27,048	197,641	189,021	33,812	729,486	785,492	77.20	84.94	221,235	131,456	109,675	113,207	98,101
	12 mos.	3,693,618	73,311	3,766,929	3,728,877	479,686	507,794	108,277	786,135	774,793	135,099	3,014,915	3,235,279	80.03	86.76	712,976	459,839	737,162	28,880	321,985

Source: Interstate Commerce Commission

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